

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:21-cv-679-MOC-DCK**

DAN BISHOP,)	
)	
Plaintiff,)	
)	
vs.)	
)	
AMY L. FUNDERBURK, et al.,)	<u>ORDER</u>
)	
Defendants.)	
)	

THIS MATTER is before the Court on its own motion following the filing of a Motion to Dismiss by Defendants John Arrowood, Jeffery Carpenter, Allegra Collins, Richard Dietz, Chris Dillon, Fred Gore, Jefferson Griffin, Toby Hampson, Lucy Inman, Darren Jackson, Hunter Murphy, Eugene H. Soar, Donna Stroud, John Tyson, April Wood, and Valerie Zachary. (Doc. No. 17).

In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Court advises Plaintiff, who is proceeding pro se, that Plaintiff has a right to respond to Defendants' motion.¹ The Court also advises Plaintiff that failure to respond may result in Defendants being granted

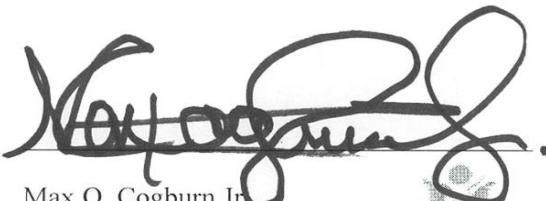
¹ The Fourth Circuit did not hold in Roseboro that such notice is required for motions to dismiss. Rather, the Fourth Circuit's discussion in Roseboro regarding notice was directed to summary judgment motions. See Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975) ("We agree with the plaintiff, however, that there is another side to the coin which requires that the plaintiff be advised of his right to file counter-affidavits or other responsive material and alerted to the fact that his failure to so respond might result in the entry of summary judgment against him."); see also Norman v. Taylor, 25 F.3d 1259, 1261 (4th Cir. 1994) ("In Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), this circuit held that pro se plaintiffs must be advised that their failure to file responsive material when a defendant moves for summary judgment may well result in entry of summary judgment against them."). Nevertheless, courts routinely issue Roseboro notices for motions to dismiss, and the Court does so here.

the relief Defendants seek—that is, the dismissal of Plaintiff's claims against Defendants.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff shall respond to the pending Motion to Dismiss, (Doc. No. 17), within 14 days of service of this Order. Failure to file a timely response will likely lead to the dismissal of Plaintiff's claims against Defendants.

Signed: February 1, 2022


Max O. Cogburn Jr.
United States District Judge